

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Guidelines for Evaluating the) ET Docket No. 93-62
Environmental Effects of)
Radiofrequency Radiation)

MOTION TO DISMISS PETITION
OF AMERITECH MOBILE COMMUNICATIONS, INC.

Ameritech Mobile Communications, Inc. ("Ameritech") submitted a "Petition for Partial Reconsideration and/or Clarification" of the Second Memorandum Opinion and Order and Notice of Proposed Rulemaking ("2nd MO&O"), FCC 97-303, in this docket, on October 14, 1997, which was noticed in the Federal Register on November 12, 1997. The Cellular Phone Taskforce asks that the Commission dismiss this petition as repetitious, in accordance with the Commission's Rules, 47 CFR Section 1.429(i). This Rule states, "Any order disposing of a petition for reconsideration which modifies rules adopted by the original order is, to the extent of such modification, subject to reconsideration in the same manner as the original order. Except in such circumstance, a second petition for reconsideration may be dismissed by the staff as repetitious" (emphasis added). Ameritech's new Petition, in every instance, asks the Commission to make modifications to its rules which it has already declined to make, and does not in any instance address any actual modifications to the original order which are contained in the 2nd MO&O.

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This new petition is therefore frivolous and repetitious and should be dismissed.

Specifically:

1. Ameritech is asking the Commission to make interim rules concerning state and local information requests.¹ This is something the Commission has declined to do.² Ameritech cannot ask the Commission to reconsider a ruling it has not made in a rulemaking procedure which has hardly begun, i.e. W.T. Docket No. 97-192, and which does not, at any rate, belong in ET Docket No. 93-62.³

2. Ameritech is asking the Commission to prescribe a detailed cost-sharing formula for bringing a site into compliance.⁴ But Ameritech already asked for this in its Petition for Reconsideration and Clarification of September 6, 1996,⁵ and the Commission already denied this request in the 2nd MO&O.⁶

3. Ameritech is asking the Commission to clarify whether new applicants can be held responsible for the entire cost of bringing a site into compliance.⁷ This repeats a request in the Petition for Reconsideration and Clarification of September 6, 1996,⁸ which was denied in the 2nd MO&O.⁹

¹ Ameritech Petition of Oct. 14, 1997 at 2-3.

² 2nd MO&O at paragraph 146.

³ 2nd MO&O at paragraph 1.

⁴ Ameritech Petition of Oct. 14, 1997 at 3-4.

4. Ameritech is asking the Commission to adopt an additional transition period for existing licensees that are otherwise required to achieve compliance upon site modification.¹⁰ The rules adopted in the Report and Order (FCC 96-326, released August 1, 1996) ("R&O") require existing sites to come into compliance at the time of renewal or modification, and the Commission declined to change this in the 2nd MO&O.¹¹ It is therefore not subject to reconsideration under 47 CFR Section 1.429(i).

5. Ameritech is asking the Commission to impose liability on site owners.¹² But Ameritech already asked for this in its Petition for Reconsideration and Clarification of September 6, 1996¹³, and the Commission already denied this request in the 2nd MO&O.¹⁴

6. Ameritech is asking the Commission for additional guidance concerning the use of warning signs.¹⁵ As this issue was neither ruled upon nor addressed in the 2nd MO&O, there is nothing here to reconsider.

⁵ Ameritech Petition of Sept. 6, 1996 at 12.

⁶ 2nd MO&O at para. 75.

⁷ Ameritech Petition of Oct. 14, 1997 at 4-5.

⁸ Ameritech Petition of Sept. 6, 1996 at 13.

⁹ 2nd MO&O at para. 75.

¹⁰ Ameritech Petition of Oct. 14, 1997 at 5-7.


¹¹ 2nd MO&O at para. 113.

¹² Ameritech Petition of Oct. 14, 1997 at 7-8.

In summary, Ameritech is raising issues most of which it has already raised in a previous Petition for Reconsideration and Clarification, and which have already been denied, and none of which concern rule modifications made by the 2nd MO&O. This is therefore not properly a Petition for Reconsideration of the 2nd MO&O and should be dismissed as repetitious, in accordance with 47 CFR Section 1.429(i).

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- ¹³ Ameritech Petition of Sept. 6, 1996 at 12.
¹⁴ 2nd MO&O at paras. 73-74.
¹⁵ Ameritech Petition of Oct. 14, 1997 at 8-9.

Respectfully submitted,


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November 22, 1997

Verification: I declare under penalty of perjury that the foregoing is true and correct. Executed on November 22, 1997


Arthur Firstenberg